

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

IN RE

FACTOR VIII OR IX CONCENTRATE BLOOD  
PRODUCTS

MDL No. 986 JFG  
No. 1:93cv7452

THIS DOCUMENT RELATES TO:

The Action Listed Below

LISANDRA ANGELICA DOS SANTOS	)	Case No. 1:08-cv-3940
CABREIRA, individually, and as Successor in	)	
Interest to the Estate of the Decedent	)	
ABRELINO CABREIRA, and as Guardian for	)	<b>E-FILED</b>
the minor Plaintiffs FELIPE DOS SANTOS	)	
CABREIRA, GABRIELA DOS SANTOS	)	ANSWER OF DEFENDANT ALPHA
CABREIRA, and ISABEL DOS SANTOS	)	THERAPEUTIC CORPORATION TO
CABREIRA, all citizens of Brazil,	)	COMPLAINT
	)	
Plaintiffs,	)	JURY DEMAND
	)	
v.	)	DISCLOSURE STATEMENT
	)	
BAYER CORPORATION, an Indiana	)	
corporation, successor to CUTTER	)	
BIOLOGICAL, a California corporation;	)	
BAXTER HEALTHCARE CORPORATION, a	)	
Delaware corporation, and its HYLAND	)	
DIVISION; BAXTER INTERNATIONAL,	)	
INC., a Delaware corporation, successor to	)	
IMMUNO-U.S., INC., a Michigan Corporation;	)	
ARMOUR PHARMACEUTICAL COMPANY,	)	
INC., a Delaware corporation; and ALPHA	)	
THERAPEUTIC CORPORATION, a California	)	
corporation,	)	
	)	
Defendants.	)	

Defendant Alpha Therapeutic Corporation ("defendant Alpha") answers the complaint as follows:

VI. INTRODUCTION

1. In answer to paragraph number 1, defendant Alpha admits that it processed and distributed factor concentrate for the treatment of hemophilia. Except as expressly admitted, defendant Alpha denies the allegations of paragraph 1 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

2. In answer to paragraph number 2, defendant Alpha denies the allegations of paragraph 2 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

3. In answer to paragraph number 3, Alpha denies the allegations of paragraph 3 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

4. In answer to paragraph number 4, Alpha denies the allegations of paragraph 4 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

5. In answer to paragraph number 5, Alpha denies the allegations of paragraph 5 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

VII. JURISDICTION AND VENUE

6. In answer to paragraph number 6, defendant Alpha lacks knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies each such allegation.

7. In answer to paragraph number 7, Alpha agrees that this action should be administratively transferred to MDL 986. The remaining allegations directed to Alpha, if any, are denied.

8. In answer to paragraph number 8, Alpha denies the allegations of paragraph 8 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

9. In answer to paragraph number 9, Alpha denies the allegations of paragraph 9 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

10. In answer to paragraph number 10, Alpha denies the allegations of paragraph 10 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

11. In answer to paragraph number 11, Alpha denies the allegations of paragraph 11 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

12. In answer to paragraph number 12, Alpha denies the allegations of paragraph 12 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

13. In answer to paragraph number 13, Alpha denies the allegations of paragraph 13 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

14. In answer to paragraph number 14, Alpha denies the allegations of paragraph 14 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

15. In answer to paragraph number 15, Alpha denies the allegations of paragraph 15 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

#### VIII. PARTIES

16. In answer to paragraph number 16, defendant Alpha denies the allegations as they relate to Alpha. Defendant Alpha lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations and, on that basis, denies each such allegation.

17. In answer to paragraph number 17, defendant Alpha denies the allegations as they relate to Alpha. Defendant Alpha lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations and, on that basis, denies each such allegation.

18. In answer to paragraph number 18, defendant Alpha denies the allegations as they relate to Alpha. Defendant Alpha lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations and, on that basis, denies each such allegation.

19. In answer to paragraph number 19, defendant Alpha denies the allegations as they relate to Alpha. Defendant Alpha lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations and, on that basis, denies each such allegation.

20. In answer to paragraph number 20, defendant Alpha denies the allegations as they relate to Alpha. Defendant Alpha lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations and, on that basis, denies each such allegation.

21. In answer to paragraph number 21, defendant Alpha denies the allegations as they relate to Alpha. Defendant Alpha lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations and, on that basis, denies each such allegation..

22. In answer to paragraph number 22, defendant Alpha denies the allegations as they relate to Alpha. Defendant Alpha lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations and, on that basis, denies each such allegation.

23. In answer to paragraph number 23, defendant Alpha denies the allegations as they relate to Alpha. Defendant Alpha lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations and, on that basis, denies each such allegation.

24. In answer to paragraph number 24, defendant Alpha lacks knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies each such allegation

25. In answer to paragraph number 25, defendant Alpha lacks knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies each such allegation.

26. In answer to paragraph number 26, defendant Alpha lacks knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies each such allegation.

27. In answer to paragraph number 27, defendant Alpha lacks knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies each such allegation.

28. In answer to paragraph number 28, defendant Alpha lacks knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies each such allegation.

29. In answer to paragraph number 29, defendant Alpha lacks knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies each such allegation.

30. In answer to paragraph number 30, defendant Alpha admits that Alpha is a California corporation with its principal place of business at 5555 Valley Boulevard, Los Angeles, California 90032, and that from time to time, Alpha processed and distributed factor concentrate for the treatment of hemophilia. Except as expressly admitted, defendant Alpha denies the remaining allegations in this paragraph.

31. In answer to paragraph number 31, defendant Alpha denies the allegations of paragraph 31 as they relate to Alpha. Alpha is without sufficient information or knowledge to

form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

32. In answer to paragraph number 32, defendant Alpha denies the allegations of paragraph 32 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

IX. FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS

A. Hemophilia and Its Treatment

33. In answer to paragraph number 33, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

34. In answer to paragraph number 34, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

35. In answer to paragraph number 35, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such

allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

B. Even Before the Discovery of HIV and AIDS, Defendants Failed to Disclose or Warn of Serious Adverse Effects Associated with Factor Concentrates

36. In answer to paragraph number 36, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

37. In answer to paragraph number 37, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

38. In answer to paragraph number 38, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.



39. In answer to paragraph number 39, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

C. Defendants Recruited Plasma Donors from High-Risk Populations to Manufacture Factor VIII and IX

40. In answer to paragraph number 40, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

41. In answer to paragraph number 41, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

42. In answer to paragraph number 42, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such

allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

43. In answer to paragraph number 43, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

44. In answer to paragraph number 44, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

45. In answer to paragraph number 45, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

46. In answer to paragraph number 46, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the

truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

47. In answer to paragraph number 47, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

48. In answer to paragraph number 48, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

49. In answer to paragraph number 49, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

50. In answer to paragraph number 50, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

D. Defendants Failed to Use the Available Hepatitis B Core (HBc) Test to Exclude Plasma from High Risk Donors

51. In answer to paragraph 51, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

52. In answer to paragraph number 52, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

53. In answer to paragraph number 53, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual

recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

54. In answer to paragraph number 54, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

55. In answer to paragraph number 55, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

56. In answer to paragraph number 56, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

57. In answer to paragraph number 57, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such

allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

E. Defendants Also Failed to Implement Available Heat Treatment and Solvent Detergent Treatment to Kill Blood-Borne Diseases

58. In answer to paragraph number 58, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

59. In answer to paragraph number 59, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

60. In answer to paragraph number 60, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

61. In answer to paragraph number 61, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

62. In answer to paragraph number 62, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

63. In answer to paragraph number 63, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

64. In answer to paragraph number 64, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual

recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

65. In answer to paragraph number 65, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

66. In answer to paragraph number 66, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

67. In answer to paragraph number 67, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

F. Defendants Continued to Ship Non-Heat Treated Factor Concentrate Products Abroad Even After They Stopped Selling Non-Heat Treated Product in the United States



68. In answer to paragraph number 68, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

69. In answer to paragraph number 69, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

70. In answer to paragraph number 70, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

71. In answer to paragraph number 71, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual

recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

G. Defendants Fraudulently Misrepresented the Safety of Factor VIII and IX and Concealed the Dangers of the Products.

72. In answer to paragraph number 72, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

73. In answer to paragraph number 73, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

74. In answer to paragraph number 74, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

75. In answer to paragraph number 75, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

76. In answer to paragraph number 76, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

77. In answer to paragraph number 77, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

78. In answer to paragraph number 78, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual

recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

79. In answer to paragraph number 79, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

80. In answer to paragraph number 80, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

81. In answer to paragraph number 81, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

H. Defendants' Activities Were Subject to Applicable Federal Regulations, Which Evidence the Standard of Care With Which Defendants Should Have Complied

82. In answer to paragraph number 82, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

83. In answer to paragraph number 83, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

84. In answer to paragraph number 84, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

85. In answer to paragraph number 85, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual

recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

86. In answer to paragraph number 86, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

87. In answer to paragraph number 87, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

88. In answer to paragraph number 88, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

89. In answer to paragraph number 89, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such

allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

90. In answer to paragraph number 90, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

I. Conspiracy, Concert of Action and Group Liability

91. In answer to paragraph number 91, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

92. In answer to paragraph number 92, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

93. In answer to paragraph number 93, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

94. In answer to paragraph number 94, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

95. In answer to paragraph number 95, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

96. In answer to paragraph number 96, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual



recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

97. In answer to paragraph number 97, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

98. In answer to paragraph number 98, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

99. In answer to paragraph number 99, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

100. In answer to paragraph number 100, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such

allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

101. In answer to paragraph number 101, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

102. In answer to paragraph number 102, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

103. In answer to paragraph number 103, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

104. In answer to paragraph number 104, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to

the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

105. In answer to paragraph number 105, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

106. In answer to paragraph number 106, defendant Alpha denies the allegations as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Insofar as the paragraph sets forth legal conclusions and/or purported factual recitations, defendant cannot respond, as these are not allegations asserted against this answering party.

X. TOLLING OF APPLICABLE STATUTES OF LIMITATION

107. In answer to paragraph number 107, Alpha denies the allegations of paragraph 107 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

108. In answer to paragraph number 108, Alpha denies the allegations of paragraph 108 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a

belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

109. In answer to paragraph number 109, Alpha denies the allegations of paragraph 109 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

XI. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

FRAUDULENT OMISSION AND CONCEALMENT (SURVIVAL ACTION)

110. In answer to paragraph number 1, Alpha refers to and incorporates herein by reference each and every admission, denial and affirmative allegation set forth in response to all previous paragraphs as if set forth fully herein.

111. In answer to paragraph number 2, Alpha denies the allegations of paragraph 2 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

112. In answer to paragraph number 3, Alpha denies the allegations of paragraph 3 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

113. In answer to paragraph number 4, Alpha denies the allegations of paragraph 4 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to

the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

114. In answer to paragraph number 5, Alpha denies the allegations of paragraph 5 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

115. In answer to paragraph number 6, Alpha denies the allegations of paragraph 6 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

116. In answer to paragraph number 7, Alpha denies the allegations of paragraph 7 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner and any relief whatsoever.

117. In answer to paragraph number 8, Alpha denies the allegations of paragraph 8 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner and any relief whatsoever.

118. In answer to paragraph number 9, Alpha denies the allegations of paragraph 9 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such

allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner and any relief whatsoever.

119. In answer to paragraph number 10, Alpha denies the allegations of paragraph 10 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner and any relief whatsoever.

120. In answer to paragraph number 11, Alpha denies the allegations of paragraph 11 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner and any relief whatsoever.

## SECOND CLAIM FOR RELIEF

### STRICT PRODUCTS LIABILITY (SURVIVAL ACTION)

121. In answer to paragraph number 12, defendant Alpha refers to and incorporates herein by reference each and every admission, denial, and affirmative allegation set forth in response to all previous paragraphs as if set forth fully herein.

122. In answer to paragraph number 13, Alpha denies the allegations of paragraph 13 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

123. In answer to paragraph number 14, Alpha denies the allegations of paragraph 14 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as

to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

124. In answer to paragraph number 15, Alpha denies the allegations of paragraph 15 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

125. In answer to paragraph number 16, Alpha denies the allegations of paragraph 16, as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner and any relief whatsoever.

126. In answer to paragraph number 17, Alpha denies the allegations of paragraph 17 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner and any relief whatsoever.

127. In answer to paragraph number 18, Alpha denies the allegations of paragraph 18 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner and any relief whatsoever.

128. In answer to paragraph number 19, Alpha denies the allegations of paragraph 19 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as

to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner and any relief whatsoever.

### THIRD CLAIM FOR RELIEF

#### BREACH OF IMPLIED WARRANTY (SURVIVAL ACTION)

129. In answer to paragraph number 20, defendant Alpha refers to and incorporates herein by reference each and every admission, denial, and affirmative allegation set forth in response to all previous paragraphs as if set forth fully herein.

130. In answer to paragraph number 21, Alpha denies the allegations of paragraph 21 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

131. In answer to paragraph number 22, Alpha denies the allegations of paragraph 22 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

132. In answer to paragraph number 23, Alpha denies the allegations of paragraph 23 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.



FOURTH CLAIM FOR RELIEF

NEGLIGENCE (SURVIVAL ACTION)

133. In answer to paragraph number 24, defendant Alpha refers to and incorporates herein by reference each and every admission, denial, and affirmative allegation set forth in response to all previous paragraphs as if set forth fully herein.

134. In answer to paragraph number 25, Alpha denies the allegations of paragraph 25 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

135. In answer to paragraph number 26, Alpha denies the allegations of paragraph 26 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

136. In answer to paragraph number 27, Alpha denies the allegations of paragraph 27 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

137. In answer to paragraph number 28, Alpha denies the allegations of paragraph 28 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

138. In answer to paragraph number 29, Alpha denies the allegations of paragraph 29 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as

to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner and any relief whatsoever.

139. In answer to paragraph number 30, Alpha denies the allegations of paragraph 30 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner and any relief whatsoever.

140. In answer to paragraph number 31, Alpha denies the allegations of paragraph 31 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner and any relief whatsoever.

141. In answer to paragraph number 32, Alpha denies the allegations of paragraph 32 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner and any relief whatsoever.

#### FIFTH CLAIM FOR RELIEF

#### NEGLIGENCE PER SE (SURVIVAL ACTION)

142. In answer to paragraph number 33, defendant Alpha refers to and incorporates herein by reference each and every admission, denial, and affirmative allegation set forth in response to all previous paragraphs as if set forth fully herein.

143. In answer to paragraph number 34, Alpha denies the allegations of paragraph 34 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

144. In answer to paragraph number 35, Alpha denies the allegations of paragraph 35 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

145. In answer to paragraph number 36, Alpha denies the allegations of paragraph 36 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in or in any manner and any relief whatsoever.

146. In answer to paragraph number 37, Alpha denies the allegations of paragraph 37 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner and any relief whatsoever.

147. In answer to paragraph number 38, Alpha denies the allegations of paragraph 38 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner and any relief whatsoever.

148. In answer to paragraph number 39, Alpha denies the allegations of paragraph 39 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner and any relief whatsoever.

#### SIXTH CLAIM FOR RELIEF

##### WRONGFUL DEATH

149. In answer to paragraph number 149, defendant Alpha refers to and incorporates herein by reference each and every admission, denial, and affirmative allegation set forth in response to all previous paragraphs as if set forth fully herein.

150. In answer to paragraph number 150, Alpha denies the allegations of paragraph 150 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

151. In answer to paragraph number 151, Alpha denies the allegations of paragraph 151 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

152. In answer to paragraph number 152, Alpha denies the allegations of paragraph 152 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

153. In answer to paragraph number 153, Alpha denies the allegations of paragraph 153 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation.

154. In answer to paragraph number 154, Alpha denies the allegations of paragraph 154 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner and any relief whatsoever.

155. In answer to paragraph number 155, Alpha denies the allegations of paragraph 155 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner and any relief whatsoever.

156. In answer to paragraph number 156, Alpha denies the allegations of paragraph 156 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, denies each such allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner and any relief whatsoever.

157. In answer to paragraph number 157, Alpha denies the allegations of paragraph 157 as they relate to Alpha. Alpha is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore,

denies each such allegation. Defendant Alpha further specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner and any relief whatsoever.

VII. PRAYER FOR RELIEF

158. In answer to paragraph number 1, defendant Alpha denies each and every allegation contained in the paragraph and specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner or in any relief whatsoever.

159. In answer to paragraph number 2, defendant Alpha denies each and every allegation contained in the paragraph and specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner or in any relief whatsoever.

160. In answer to paragraph number 3, defendant Alpha denies each and every allegation contained in the paragraph and specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner or in any relief whatsoever.

161. In answer to paragraph number 4, defendant Alpha denies each and every allegation contained in the paragraph and specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner or in any relief whatsoever.

162. In answer to paragraph number 5, defendant Alpha denies each and every allegation contained in the paragraph and specifically denies that plaintiffs are entitled to damages in any sum or sums or in any manner or in any relief whatsoever.

AFFIRMATIVE DEFENSES

1. The complaint fails to state a claim against Alpha upon which relief can be granted.

SECOND DEFENSE

2. Defendant Alpha is presently without sufficient information to determine precisely which statutes of limitation may apply to the instant action, as the complaint is vague and ambiguous with respect to plaintiffs' alleged use of antihemophilic factor concentrate, exposure to the virus, and reliance on alleged misrepresentation. In order to avoid any subsequent claim of waiver, Alpha alleges that plaintiffs' claims are barred by the applicable statutes of limitation and/or repose.

THIRD DEFENSE

3. Plaintiffs' claims are barred in whole or in part by the applicable blood shield statutes of California, including but not limited to, Health and Safety Code section 1606 and other applicable blood shield statutes of such other jurisdictions as may be applicable.

FOURTH DEFENSE

4. Plaintiffs' claims are barred by waiver, estoppel, and/or laches.

FIFTH DEFENSE

5. Plaintiffs and plaintiffs' decedent at the time of all events in question, were fully aware of the conditions existing, any risks inherent therein, and knowingly, willingly, and voluntarily assumed the risk of conditions present and the dangers inherent therein.

SIXTH DEFENSE

6. Plaintiffs and plaintiffs' decedent were negligent and that negligence was the sole and proximate cause of the alleged injuries or, in the alternative, was the contributing proximate cause of the alleged injuries thereby barring recovery in full or in proportion to their own negligence.

SEVENTH DEFENSE

7. Any recovery by plaintiffs should be reduced due to plaintiffs' failure to mitigate damages.

EIGHTH DEFENSE

8. Plaintiffs failed to give sufficient and timely notice of any alleged breach of warranty and, therefore, are precluded from recovery.

NINTH DEFENSE

9. Plaintiffs' injuries and damages, if any, were proximately caused by an intervening or superseding cause, and plaintiffs' recovery is therefore barred.

TENTH DEFENSE

10. If plaintiffs suffered or sustained any loss, damage or injuries alleged in the complaint, the same was proximately caused and contributed to by plaintiffs and plaintiffs' decedent in failing to use antihemophilic factor concentrate in a reasonable foreseeable manner. As a result of said failure to use in the manner intended, plaintiffs' recovery is barred and/or diminished.

ELEVENTH DEFENSE

11. The alleged injuries and/or damages, if any, of plaintiffs were the result of unavoidable circumstances which could not have been prevented by anyone.

TWELFTH DEFENSE

12. To the extent that plaintiffs rely upon false, misleading, and deceptive advertising, plaintiffs fail to state a claim upon which relief can be granted.

THIRTEENTH DEFENSE

13. To the extent that plaintiffs rely upon a theory of strict liability, plaintiffs fail to state a claim upon which relief can be granted.



FOURTEENTH DEFENSE

14. The alleged conduct of defendant Alpha constitutes a service, not a sale, and, consequently, Alpha cannot be held responsible under any theory of breach of express or implied warranty, or under the theories of strict liability, alternate liability, conspiracy, concert of action, or "enterprise or industry-wide liability" and/or products liability.

FIFTEENTH DEFENSE

15. To the extent that Alpha supplied any antihemophilic factor, Alpha did not owe a duty to plaintiffs as the factor concentrate was supplied by learned intermediaries, fully knowledgeable about the factor concentrate and its uses.

SIXTEENTH DEFENSE

16. Alpha's antihemophilic factor concentrate is a prescription biologic which has been licensed and approved under the applicable federal statute, 42 U.S.C. § 262, and regulations issued thereunder. Alpha's compliance with the federal statutes and regulations, including, but not limited to the statute mentioned above, preempts and bars plaintiffs' claims.

SEVENTEENTH DEFENSE

17. If it is determined that a risk is inherent in antihemophilic factor, then such risk is outweighed by the benefits of antihemophilic factor.

EIGHTEENTH DEFENSE

18. At all relevant times, Alpha conformed its conduct to the applicable state of medical and scientific knowledge in all material respects, thereby barring plaintiffs' recovery.

NINETEENTH DEFENSE

19. Alpha's methods and techniques of collecting, processing, inspecting, testing and labeling factor concentrates and all attendant advisory procedures conformed with the state of the art at the time the factor concentrates left the custody and control of Alpha.

TWENTIETH DEFENSE

20. Plaintiffs' claims, or any of them, are barred because Alpha's antihemophilic factor concentrate is "unavoidably unsafe" within the meaning of comment K to section 402A Restatement (Second) of Torts, Section 6 of Restatement (Third) of Torts, and because the benefits of the fractionation and sale of antihemophilic factor concentrates outweighs the unavoidable risks of harm resulting from such conduct.

TWENTY-FIRST DEFENSE

21. The complaint fails to state a claim against Alpha upon which relief may be granted for punitive or exemplary damages.

TWENTY-SECOND DEFENSE

22. Defendant Alpha alleges that the imposition of punitive damages is a violation of its due process and equal protection rights under the Fifth and Fourteenth Amendments of the United States Constitution. Additionally, exposing this answering defendant to the punitive damages award requested by plaintiffs without any specific limitations upon the size of the award is a violation of the excessive fine clause of the Eighth Amendment to the United States Constitution and is barred to the extent that it is inconsistent with any applicable standards and limitations set forth in *BMW of North America, Inc. v. Gore* 517 U.S. 559, 134 L.Ed.2d 809, 116 S. Ct. 1589 (1996) and *State Farm v. Campbell* 123 S. Ct. 1513 (2003).

TWENTY-THIRD DEFENSE

23. To the extent that plaintiffs rely upon the doctrine of failure to warn, plaintiffs fail to state a claim upon which relief can be granted.

TWENTY-FOURTH DEFENSE

24. Plaintiffs failed to join indispensable parties which is a necessary prerequisite for prosecution of this lawsuit.

TWENTY-FIFTH DEFENSE

25. The conduct of Alpha was not a substantial factor in bringing about the plaintiffs' alleged injuries and, therefore, was not a contributing cause thereof, but, rather, such injuries were caused by the acts of another.

TWENTY-SIXTH DEFENSE

26. To the extent that plaintiffs rely upon the doctrine of breach of implied warranty, plaintiffs fail to state a claim upon which relief can be granted.

TWENTY-SEVENTH DEFENSE

27. Plaintiffs' claims are barred because there is no privity between plaintiffs and Alpha.

TWENTY-EIGHTH DEFENSE

28. To the extent that plaintiffs rely upon the doctrine of breach of expressed warranty, plaintiffs fail to state a claim upon which relief can be granted.

TWENTY-NINTH DEFENSE

29. To the extent that plaintiffs rely upon the doctrine of concert of action, plaintiffs fail to state a claim upon which relief can be granted.

THIRTIETH DEFENSE

30. To the extent that plaintiffs rely upon the doctrine of enterprise or industry-wide liability, plaintiffs fail to state a claim upon which relief can be granted.

THIRTY-FIRST DEFENSE

31. Defendant Alpha has not knowingly or intentionally waived any applicable affirmative defenses. Alpha reserves the right to assert and to rely upon such other defenses as may become available or apparent during discovery proceedings or as may be raised or asserted by other defendants in this case, and to amend its answer and/or affirmative defenses accordingly. Alpha further reserves the right to amend its answer to delete affirmative defenses that it determines are not applicable after subsequent discovery.

THIRTY-SECOND DEFENSE

32. Plaintiffs lack standing to assert claims.

THIRTY-THIRD DEFENSE

33. There is a defect or misjoinder of parties.

THIRTY-FOURTH DEFENSE

34. This court is neither a proper nor convenient forum for the just adjudication of plaintiffs' claims.

THIRTY-FIFTH DEFENSE

35. Plaintiffs' claims are barred by the law of the jurisdictions in which they reside and are, as such, barred in this court by principles of comity.

THIRTY-SIXTH DEFENSE

36. The complaint and each cause of action purportedly alleged are barred in whole or in part by plaintiffs' failure to join indispensable parties.

THIRTY-SEVENTH DEFENSE

37. Plaintiffs' claims are barred, in whole or in part, by settlement of their claims.

THIRTY-EIGHTH DEFENSE

38. Plaintiffs' claims are barred to the extent laws within their own countries provided for financial compensation or assistance for plaintiffs' alleged injuries.

THIRTY-NINTH DEFENSE

39. Plaintiffs' right to compensation, if any, have already been adjudicated in their home countries.

FORTIETH DEFENSE

40. Plaintiffs' claims are barred by the doctrine of res judicata.

FORTY-FIRST DEFENSE

41. Plaintiffs' claims fail in whole or in part because of improper claim splitting.

FORTY-SECOND DEFENSE

42. To the extent that plaintiffs' claims are based on a theory providing for liability without proof of causation, the claims violate defendant's rights under the United States Constitution and any applicable state constitutions.

FORTY-THIRD DEFENSE

43. The complaint fails to state a claim upon which relief can be granted as to interest, costs and attorneys' fees.

FORTY-FOURTH DEFENSE

44. To the extent that plaintiffs' claims are based on alleged misrepresentations or omissions made to the FDA, under federal law such claims are barred pursuant to *Buckman v. Plaintiffs' Legal Committee*, 531 U.S. 341 (2001).

FORTY-FIFTH DEFENSE

45. To the extent the complaint seeks equitable or injunctive relief, it fails to state a claim for such relief and is barred by an adequate remedy at law.

FORTY-SIXTH DEFENSE

46. Alpha adopts and incorporates by reference all defenses pleaded by other defendants except to the extent they are inconsistent with Alpha's defenses pleaded in this answer.

FORTY-SEVENTH DEFENSE

47. The claims are not brought by proper or authorized plaintiffs or representatives.

FORTY-EIGHTH DEFENSE

48. The claims are barred by another action pending.

DEMAND FOR JURY TRIAL

Defendant Alpha Therapeutic Corporation demands a trial by jury on all issues stated.

Dated: August 27, 2008

Respectfully submitted,

By: Kevin J. Stack  
KEVIN J. STACK  
Attorneys for Defendant  
ALPHA THERAPEUTIC CORPORATION

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DISCLOSURE AND CERTIFICATE OF INTERESTED ENTITIES OR PARTIES

Pursuant to Civil L.R. 3.2, the undersigned certifies that the following listed persons, association of persons, firms, partnerships, corporations or other entities (i) have a financial interest in the subject matter in controversy or in a party to the proceeding, or (ii) have a non-financial interest in that subject matter or in a party that could be substantially affected by the outcome of this proceeding: Alpha Therapeutic Corporation (party); Welfide International Corporation (parent).

Dated: August ~~2~~7, 2008

Respectfully submitted,

By: Kevin J. Stack  
KEVIN J. STACK  
Attorneys for Defendant  
ALPHA THERAPEUTIC CORPORATION

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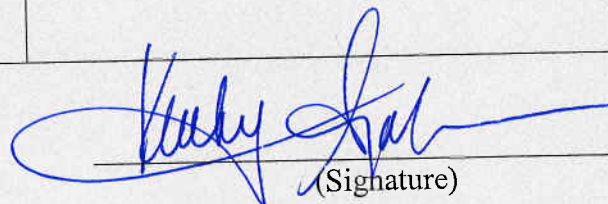
**CERTIFICATE OF SERVICE**

I hereby certify that on this 27th day of August, 2008, I caused to be served a true and correct copy of the documents described as ANSWER OF DEFENDANT ALPHA THERAPEUTIC CORPORATION TO COMPLAINT; JURY DEMAND; DISCLOSURE STATEMENT on the following counsel of record pursuant to ECF as to Filing Users and by Federal Express, postage prepaid, pursuant to Local Rule 5.5 as to any party who is not a Filing User or represented by a filing user:

**SERVICE LIST**

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(Type or print name)

  
(Signature)